UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/6
21 February 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1295 (XLIV).

[27 January 1997]

1. The peaceful resolution of Northern Ireland's political conflict is at a crucial and difficult moment. Since the end of the 18 month cease-fire, the United Kingdom authorities have applied emergency laws and practices more aggressively. Human rights violations were core to this creation of conflict and their termination remains essential to its successful resolution. Measures which would enhance human rights protections in the jurisdiction are a clear means to facilitate confidence-building, allowing the wider work of determining agreed political structures to take place.

2. In particular, emergency powers in the jurisdiction have been consistently linked to serious human rights violations, fuelling and exacerbating the conflict rather than facilitating its resolution. Basic due process rights continue to be denied to citizens in Northern Ireland. Trials involving those charged with security offences in Northern Ireland are characterized by a number of procedural aspects whose overall effect is to limit protection for the rights of accused persons. These include lower standards of admissibility for evidence, limitations on access to bail, pre-trial detention procedures in contravention of international standards and extended periods on remand for accused persons prior to trial.

3. There are not sufficient grounds for imposing these emergency provisions in international law. The United Kingdom has derogated from its obligations under the European Convention on Human Rights by asserting that the situation in Northern Ireland constitutes a "public emergency threatening the life of the nation". The recent wave of violence and the current level of foreboding are grave and serious matters, but the life of the nation is not threatened, and the ordinary criminal law is sufficient to deal with violence.

4. Second, the emergency law has been demonstrably ineffective in solving the intractable problem of communal violence, either before the 1994-1996 cease-fires, during them or since. Third, the suspension of due process rights, the ending of jury trials, the widespread abuse of detainees and other human rights violations associated with the emergency have stoked deep and bitter resentments on all sides. Emergency laws are not the solution; they are part of the problem.

5. In December 1996 the Lawyers Committee published a report on Northern Ireland, entitled <u>At the Crossroads: Human Rights and the Northern Ireland Peace Process</u>. In that report the Lawyers Committee makes the following recommendations:

I. <u>Emergency laws</u>

(i) As a pivotal step in the process of building confidence in the legal order in Northern Ireland, all emergency powers should be repealed.

(ii) The United Kingdom should withdraw its derogation from article 5 (3) of the European Convention of Human Rights and article 9 (3) of the International Covenant on Civil and Political Rights.

(iii) The implementation of the ordinary law should be given priority. The permanent retention of emergency laws in the guise of ordinary law is inconsistent with international legal standards and counterproductive to the peace process.

II. <u>Intimidation of defence lawyers</u>

(a) Allegations of intimidation

(i) The United Kingdom authorities should require vigorous and independent investigation of all threats to legal counsel in Northern Ireland. Solicitors who report threats of violence should be accorded effective protection.

(ii) An independent public inquiry should be held into the murder of Patrick Finucane. The Royal Ulster Constabulary should make a public statement regarding the status of its investigation into the Finucane murder. In 1992, a call for such an inquiry was made at the Sub-Commission on the

Prevention of Discrimination and the Protection of Minorities, by Professor Claire Palley, the independent expert nominated by the Government of the United Kingdom. No such independent inquiry has taken place.

(b) Access to lawyers

(i) The right to immediate access to counsel of choice should be respected. Detainees should have access to such legal advice during interrogation.

(ii) The Human Rights Committee also concluded that the use of extended periods of detention, without charge or access to legal advisors, state entry into private property without judicial warrant and the imposition of exclusion orders within the United Kingdom were "excessive". The European Court of Human Rights, in the case of Murray v United Kingdom (February 1996), found that the United Kingdom practice of withholding legal advice from detainees for the first 48 hours of police questioning was in violation of article 6 of the European Convention. The United Kingdom has continued to use the powers and practices criticized by the Human Rights Committee without repeal or modification.

(iii) Detainees should have regular, constant and confidential access to their solicitors.

(c) Detention practices and conditions

(i) All interrogations should be audio- and videotaped. Solicitors representing detainees should have access to such audio- and videotapes.

(ii) The detention centres at Castlereagh and Gough Barracks should be closed down immediately and on a permanent basis. The United Kingdom has failed to heed the recommendation of the Human Rights Committee in 1995, which called for the closure of Castlereagh detention centre in Northern Ireland, noting the Government's own admission that the conditions in which detainees were being held were "unacceptable".

6. The Lawyers Committee strongly urges that the international community pledge its support to the maintenance and protection of human rights in Northern Ireland. It is incumbent on the United Kingdom, as a leading democratic State, to set an example for the world community in its commitment and adherence to human rights protection. Ensuring such protection is a means to foster and nurture the process of confidence-building and peace-making in Northern Ireland.

- - - - -